

City of Portland

Bureau of Development Services

Land Use Services Division

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Date: September 12, 2008
To: Interested Person

From: Sean Williams, Land Use Services

503-823-7612 / sean.williams@ci.portland.or.us

NOTICE OF A TYPE I DECISION ON A PROPOSAL IN YOUR NEIGHBORHOOD

The Bureau of Development Services has approved a proposal in your neighborhood. The reasons for the decision are included in this notice. If you disagree with the decision, you can appeal it to the Oregon Land Use Board of Appeals (LUBA) at 550 Capitol St. NE, Suite 235, Salem, OR 97301. The phone number for LUBA is 1-503-373-1265. Information on how to appeal this decision is listed at the end of this notice.

CASE FILE NUMBER: LU 08-133034 LDP

GENERAL INFORMATION

Applicant: Kent W Cox

Kent W Cox & Associates, Inc.

204 NE Kelly Avenue Gresham, OR 97030 (503)-667-4464

Owner: Wendy R Burns

20500 SE Hwy. 212 Damascus, OR 97089

Site Address: 6308 SE 70TH AVE

Legal Description: LOT 13 BLOCK 5 N 10' OF LOT 14 BLOCK 5, ALTOONA PK; N 5' OF

S 30' OF LOT 14 BLOCK 5, ALTOONA PK

Tax Account No.: R021900360, R021900370

State ID No.: 1S2E17CD 12100, 1S2E17CD 12000

Quarter Section: 3637

Neighborhood: Mt. Scott-Arleta, contact Marla Turner at 503-887-9075.

Business District: Eighty-Second Avenue, contact Nancy Chapin at 503-774-2832.

District Coalition: Southeast Uplift, contact Cece Hughley Noel at 503-232-0010.

Zoning: Residential 2,500 (R2.5) w/ Alternative Design Density overlay Zone (a).

Case Type: Land Division Partition (LDP)

Procedure: Type I, an administrative decision with appeal to the Oregon Land

Use Board of Appeals (LUBA).

Proposal:

The applicant is proposing to partition the subject property into two standard parcels of approximately 3,192 (Parcel 1) and 2,337 (Parcel 2) square feet in size. An existing house will remain on Parcel 1. A water main extension is proposed in SE Tolman Street to serve Parcel 2. Sanitary sewer service is proposed for Parcel 2 via an easement through Parcel 1.

This partition is reviewed through a Type I land use review because: (1) the site is in a residential zone; (2) fewer than four lots are proposed; (3) none of the lots, utilities, or services are proposed within a Potential Landslide Hazard or Flood Hazard Area, and; (4) no other concurrent land use reviews (such as an Adjustment, Design Review, or Environmental Review) are requested or required (see 33.660.110).

For purposes of State Law, this land division is considered a partition. To partition land is to divide an area or tract of land into two or three parcels within a calendar year (See ORS 92.010).

Relevant Approval Criteria:

In order to be approved, this proposal must comply with the approval criteria of Title 33. The relevant criteria are found in Section 33.660.120, Approval Criteria for Land Divisions in Open Space and Residential Zones.

ANALYSIS

Site and Vicinity: The site is located on the southeast corner of SE Tolman Street and SE 70th Avenue. Improvements consist of a house that will be retained on proposed Parcel 1 and a detached accessory structure (shed) that will be removed as a part of this review. Water and sanitary sewer service is available in SE 70th Avenue. No utilities are located in SE Tolman Street. No trees are present within the land division site subject to preservation standards. The surrounding neighborhood is predominately zoned R2.5a with development consisting of detached residential housing.

Zoning: The R2.5 designation is one of the City's single-dwelling zones which is intended to preserve land for housing and to promote housing opportunities for individual households. The zone implements the comprehensive plan policies and designations for single-dwelling housing.

The "a" overlay is intended to allow increased density that meets design compatibility requirements. It focuses development on vacant sites, preserves existing housing stock, and encourages new development that is compatible with the surrounding residential neighborhood. This land division proposal is <u>not</u> using any of the provisions of the "a" overlay.

Land Use History: An adjustment (LU 06-141965 AD) to maximum building coverage associated with planned development was requested and later withdrawn.

Agency and Neighborhood Review: A Notice of Proposal in your Neighborhood was mailed on July 7, 2008.

- **1. Agency Review:** Several Bureaus and agencies have responded to this proposal. Please see Exhibits E for details. The comments are addressed under the appropriate criteria for review of the proposal.
- **2. Neighborhood Review:** One written response was submitted from a notified property owner in response to the proposal. Comments and concerns expressed in the response relevant to the request for land division are addressed below:
- Trees located on the land division site were not destroyed by storm damage but instead were removed prior to application.

Staff Response: Because the trees in question were removed prior to application for land division they are not subject to tree preservation standards of the zoning code. However,

based on the size and location of the trees they may have been subject to Urban Forestry requirements. Myles Black (823-4489) of Urban Forestry has been notified of the removal of the trees in question and may take appropriate action if deemed necessary.

• Additional development, potentially consisting of 3-4 attached houses, will strain the off-street parking situation in the vicinity.

Staff Response: The correspondent is under the assumption that row houses will be built after the land division is complete. The maximum allowed density for the subject property is 2 and proposed Parcel 2 will only be available for detached residential development. Although not proposed at this time, Parcel 1 may accommodate a duplex or 2 attached houses in the future via the duplexes and attached houses on corners (33.110.240.E) Alternative Development Option. In addition, a conceptual building footprint on Parcel 2 delineates a setback associated with a garage and on-site parking space and the parking pad for the existing residence will remain. On-site parking is not required for this site based on the proximity to frequent public transportation. Parking is allowed on both sides of SE 70th Avenue and SE Tolman Street and the Bureau of Transportation has not raised any issues relevant to off-street parking in the area.

APPROVAL CRITERIA-

APPROVAL CRITERIA FOR LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

33.660.120 The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met.

The relevant criteria are found in Section **33.660.120 [A-L], Approval Criteria for Land Divisions in Open Space and Residential Zones**. Due to the specific location of this site, and the nature of the proposal, some of the criteria are not applicable. The following table summarizes the applicability of each criterion.

Criterion	Code Chapter	Topic	Applicability Findings
A	33.611	Lots	Applicable - See findings below.
В	33.630	Trees	Not applicable - No significant trees or trees in excess of 6 inches in diameter located fully on the site.
С	33.631	Flood Hazard Area	Not applicable - The site is not within the flood hazard area.
D	33.632	Potential Landslide Hazard Area	Not applicable - The site is not within the potential landslide hazard area.
E	33.633	Phased Land Division or Staged Final Plat	Not applicable - A phased land division or staged final plat has not been proposed.
F	33.634	Recreation Area	Not applicable - This is not required where the proposed density is less than 40 units.
G	33.635 .100	Clearing and Grading	Applicable - See findings below.

Criterion	Code Chapter	Topic	Applicability Findings
G	33.635 .200	Land Suitability	Applicable - See findings below.
Н	33.636	Tracts and Easements	Applicable - See findings below.
I	33.639	Solar Access	Not Applicable - Maintaining existing development on the site limits new parcel configuration (33.610.200 supercedes 33.639).
J	33.640	Streams, Springs, and Seeps	Not applicable - No streams, springs, or seeps are evident on the site.
K	33.641	Transportation Impacts	Applicable - See findings below.
L	33.651 - 33.654	Services and Utilities	Applicable - See findings below.

Applicable Approval Criteria are:

A. Lots. The standards and approval criteria of Chapters 33.605 through 33.612 must be met.

Findings: Chapter 33.611 contains the density and lot standards applicable in the R2.5 zone. These density and lot dimension standards ensure that lots are consistent with the desired character of each zone while allowing lots to vary in size and shape provided the planned intensity of each zone is respected.

Density Standards

Density standards match housing density with the availability of services and with the carrying capacity of the land in order to promote efficient use of land, and maximize the benefits to the public from investment in infrastructure and services. These standards promote development opportunities for housing and promote urban densities in less developed areas. Maximum densities ensure that the number of lots created does not exceed the intensity planned for the area, given the base zone, overlay zone, and plan district regulations. Minimum densities ensure that enough dwelling units can be developed to accommodate the projected need for housing.

The method used to calculate density depends on whether a street is created as part of the land division, and whether the site is subject to certain environmental constraints.

In this case, a street is not proposed or required, and the site is <u>not</u> within the environmental zone, potential landslide hazard area, or flood hazard area. Therefore, the maximum and minimum density for this site is as follows:

Minimum = $(5,529 \text{ square feet * }.80) \div 5,000 \text{ square feet = } 0.88 \text{ (which rounds up to a minimum of 1 parcel, per } 33.930.020.A)$

Maximum = 5,529 square feet $\div 2,500$ square feet = 2.21 (which rounds down to a maximum of 2 parcels, per 33.930.020.B)

The applicant is proposing 2 parcels. The density standards are therefore met.

Lot Dimensions

The lot dimension standards ensure that: (1) each lot has enough room for a reasonably-sized house and garage; (2) lots are of a size and shape that development on each lot can meet the development standards of the Zoning Code; (3) lots are not too large relative to the planned density; (4) each lot has room for at least a small, private outdoor area; (5) lots are compatible with existing lots; (6) lots are wide enough to allow development to orient toward the street; (7) lots don't narrow to an unbuildable width close to the street; (8) each lot has adequate access from the street; (9) each lot has access for utilities and services; and (10) lots are not landlocked.

The dimensions of the proposed lots as compared to the required lot dimension standards is shown in the following table (this information is found in Chapter 33.611 of the Zoning Code):

	R2.5 Zone	Proposed	Proposed
	Requirement	Parcel 1	Parcel 2
Minimum Lot Area	1,600 sq. ft.	3,192 sq.	2,337 sq.
Maximum Lot Area	N/A	ft.	ft.
Minimum Lot Width*	36 ft.	55.46 ft.	42.70 ft.
Minimum Lot Depth	40 ft.	57.10 ft.	55.33 ft.
Minimum Front Lot Line	30 ft.	55.46 ft.	42.70 ft.

^{*} Width is measured at the minimum front building setback line

G. Clearing, Grading and Land Suitability. The approval criteria of Chapter 33.635, Clearing, Grading and Land Suitability must be met.

The approval criteria of Chapter 33.635 are found in two groups – clearing and grading, and land suitability.

33.635.100 - Clearing and Grading

- A. Existing contours and drainage patterns of the site must be left intact wherever practicable. Where alteration to existing drainage patterns is proposed, it must not adversely impact adjacent properties by significantly increasing volume of runoff or erosion;
- B. Clearing and grading should be sufficient for construction of development shown on the Preliminary Clearing and Grading Plan;
- C. Clearing and grading should be limited to areas of the site that are reasonably necessary for construction of development shown on the Preliminary Clearing and Grading Plan;
- D. Topsoil must be preserved on site to the extent practicable for use on the site after grading is complete; and
- E. Soil stockpiles must be kept on the site and located in areas designated for clearing and grading as much as is practicable.

Findings: The regulations of Chapter 33.635 ensure that the proposed clearing and grading is reasonable given the infrastructure needs, site conditions, tree preservation requirements, and limit the impacts of erosion and sedimentation to help protect water quality and aquatic habitat. In this case the site is primarily flat, and is not located within the Potential Landslide Hazard Area. Therefore, no significant clearing or grading will be required on the site to make the new lots developable. This criterion is met.

33.635.200 - Land Suitability

Where geologic conditions or historic uses of the site indicate a hazard may exist, the applicant must show that the proposed land division will result in lots that

are suitable for development. The applicant may be required to make specific improvements in order to make the lots suitable for their intended uses and the provision of services and utilities.

The site is currently in residential use, and there is no record of any other use in the past. The existing house on Parcel 1 is not connected to the public sanitary sewer system located in SE 70th Avenue. A cesspool is located on the site that currently handles sewage disposal for the existing residence. Prior to final plat, the applicant must meet the requirements of the Site Development Section of the Bureau of Development Services for decommissioning of this facility and connecting to the existing sanitary sewer system. There are also two existing drywells located on the subject property, one of which is in the area of the new property line and therefore must be decommissioned prior to final plat approval. The other drywell is located west of the existing house and may remain/continue to manage stormwater for Parcel 1. With the conditions described above, the new lots can be considered suitable for new development, and this criterion is met.

- H. Tracts and easements. The standards of Chapter 33.636, Tracts and Easements must be met;
 - 33.636.100 Requirements for Tracts and Easements
 - A. Ownership of tracts. Tracts must be owned as follows unless otherwise specified in this Title or the land use decision:
 - 1. The owners of property served by the tract, or by any other individual or group of people. When the tract is owned by more than one person it must be held in common with an undivided interest;
 - 2. The Homeowners' Association for the area served by the tract;
 - 3. A public or private non-profit organization; or
 - 4. The City or other jurisdiction.

Findings: No tracts are proposed or required for this land division, so criterion A does not apply.

B. Maintenance agreement. The applicant must record with the County Recorder a maintenance agreement that commits the owners or owners' designee to maintain all elements of the tract or easement; however, facilities within the tract or easement that will be maintained by a specified City agency may be recorded in a separate maintenance agreement. The maintenance agreement must be approved by BDS and the City Attorney in advance of Final Plat approval and must be submitted to the County Recorder to be recorded with the Final Plat. For a Planned Development not done in conjunction with a land division, the maintenance agreement must be submitted to the County Recorder to be recorded prior to issuance of the first building permit related to the development.

Findings: The following easement is proposed and/or required for this land division:

• A Private Sanitary Sewer Easement is required across the relevant portions of Parcel 1, for a sanitary sewer lateral connection that will serve Parcel 2 (see Criterion L. Services & Utilities).

As stated in Section 33.636.100 of the Zoning Code, a maintenance agreement will be required describing maintenance responsibilities for the easement described above and facilities within those areas. This criterion can be met with the condition that a maintenance agreement is prepared and recorded with the final plat. In addition, the plat

must reference the recorded maintenance agreement with a recording block, substantially similar to the following example:

"A Declaration of Maintenance Agreement for Private Sanitary Sewer Easement has been recorded as document no. ______, Multnomah County Deed Records."

With the conditions of approval discussed above, this criterion is met.

K. Transportation impacts. The approval criteria of Chapter 33.641, Transportation Impacts, must be met; and,

The relevant approval criteria of Chapter 33.641 are found in the two paragraphs below.

33.641.020. The transportation system must be capable of safely supporting the proposed development in addition to the existing uses in the area. Evaluation factors include: street capacity and level-of-service; vehicle access and loading; on-street parking impacts; the availability of transit service and facilities and connections to transit; impacts on the immediate and adjacent neighborhoods; and safety for all modes.

33.641.030. The applicant may meet the criterion in Section 33.641.020, above, by including mitigation measures as part of the land division proposal. Mitigation measures must be acceptable to the City Engineer and may include providing transportation demand management measures, an access management plan, constructing streets or bicycle, pedestrian, or transit facilities on or off the site or other capital improvement projects such as traffic calming devices.

Findings: The regulations of Chapter 33.641 allow the traffic impacts caused by dividing and then developing land to be identified, evaluated, and mitigated for if necessary. Small land divisions involving only a few dwelling units may not require a formal transportation impact study, while it might be required for larger projects (Title 17 includes technical standards describing when a more formal study is required).

The site has approximately 55.46-feet of frontage on SE 70th Avenue and 99.8-feet of frontage on SE Tolman Street. Both Streets are classified as a local service street for all modes in the Transportation System Plan. Tri-Met provides frequent transit service approximately 430-feet from the site on SE Duke Street via bus number 19. Parking is currently allowed on both sides of SE 70th Avenue and SE Tolman Street at this location. There is one driveway entering the site from SE Tolman Street, approximately 42-feet from the northwest corner of the property that provides access to off-street parking for the existing house.

SE Tolman Street is improved with 32-feet of paved roadway surface and a pedestrian corridor consisting of a 6-foot wide curb-tight sidewalk and an 8-foot wide planter strip located behind the sidewalk (0-6-8 configuration) within a 55-foot wide right-of-way. SE 70th Avenue is improved with 28-feet of paved roadway surface and a pedestrian corridor consisting of a 0.5-foot curb, 4-foot planter strip, 6-foot wide sidewalk and 1-foot setback to private property (4-6-1 configuration) within a 50-foot wide right-of-way. In reviewing this land division, Portland Transportation relies on accepted civil and traffic engineering standards and specifications to determine if existing street improvements for motor vehicles, pedestrians and bicyclists can safely and efficiently serve the proposed new development. The recommended roadway width supporting parking in both directions for local service streets in the R2.5 zone is met for both streets. The recommended pedestrian corridor design for local service streets consists of a 0.5-foot curb, 4-foot planter strip and 6-foot sidewalk with a 0.5-foot setback to private property. The existing pedestrian corridor

configuration for SE 70th Avenue meets recommended City standards. The existing pedestrian corridor configuration for SE Tolman Street at this site does not meet the recommended City standards but is consistent with the area and provides a reasonable level of improvements for pedestrian needs. Therefore, it would not be meaningful to alter the pedestrian corridor to meet recommended City standards as it would not be consistent with existing improvements on SE Tolman Street.

As indicated above, an adjacent property owner has raised issues regarding parking within the vicinity. Because the site is within 500-feet of frequent public transportation on site parking will not be required for the new parcel nor will replacement of parking be required for the existing residence. However, the parking pad for the existing residence will remain and it appears that the applicant has considered providing parking for the new parcel based on a conceptual building footprint delineating setbacks for a garage parking space. Upon visiting the site, it does not appear there is a deficiency of on street parking in the neighborhood. In addition, PDOT has not indicated that parking is a concern in this area.

PDOT has noted that continuous curb and cut distances must be met per City Standards for setbacks from corner lot lines. In addition, if the existing curb or sidewalk is in poor condition, or damaged during construction, repairs meeting the City Engineers requirements will be required at the time of development. Portland Transportation has not identified or been made aware of any factors related to this proposal that lead to a conclusion other than that one additional dwelling can be safely served by the existing street network without having any significant impact on the level of service provided. This criterion is met.

L. Services and utilities. The regulations and criteria of Chapters 33.651 through 33.654, which address services and utilities, must be met.

Findings: Chapters 33.651 through 33.654 address water service standards, sanitary sewer disposal standards, stormwater management, utilities and rights of way.

- The water standards of 33.651 have been verified. The existing house is served by a 5/8 inch metered service from a water main located in SE 70th Avenue. The existing service may continue to provide water to the house located on Parcel 1. There is no existing water service in SE Tolman Street. Title 21 requires that the water service connections be located along the frontage of the lot to be served. Water service connections are not allowed by means of an easement. The proposed land division configuration leaves Parcel 2 with frontage solely on SE Tolamn Street. Therefore, the applicant must make arrangements to extend a new water main in SE Tolamn Street to a point at least 5-feet west of the new property line to ensure service is available to Parcel 2. In order to meet the standards of 33.651 and the technical requirements of Title 21, appropriate plans and assurances must be provided to the Water Bureau prior to final plat approval. See Exhibit E-3 for more details.
- The sanitary sewer standards of 33.652 have been verified. There is an existing 8-inch PVC public sanitary gravity main located in SE 70th Avenue. There is no public sanitary sewer available in SE Tolman Street. The existing house is not currently connected to the public sewer system in SE 70th Avenue. Therefore, prior to final plat approval, the existing cesspool must be decommissioned and final approval of a plumbing permit to connect the existing house on Parcel 1 to the public sewer system will be required. Because no service is available in SE Tolman Street, the applicant has proposed a Private Sanitary Sewer Easement across the relevant portions of Parcel 1, for a sanitary sewer lateral connection that will serve Parcel 2. A plumbing code appeal (#5512) was granted as the proposed easement is 7-feet in width as opposed to the required 10-feet. The easement shall be shown on the Final Plat and a Maintenance Agreement for the

easement must be submitted for approval by BDS and the City Attorney and must be recorded with the Final Plat. See Exhibit E-1 for more details.

- The technical standards of Chapter 33.653 related to stormwater management have been verified. The findings below for the Stormwater Management Approval Criteria of 33.653.020 incorporate a discussion of how the technical standards have been satisfied by the applicant's stormwater proposal.
- Chapter 33.654 includes technical standards related to proposed public and private rights of way, including improvements within streets, pedestrian connections, common greens, and alleys. However, no new streets, pedestrian connections, common greens, or alleys are proposed or required within the land division site. The site is located on a corner and is approximately 55-feet by 100-feet and therefore meets the through street and pedestrian connectivity requirements. As result, the remaining standards and approval criteria related to street connectivity, location, and design are met or not applicable.

33.653.020 Stormwater Management Approval Criteria

- A. If a stormwater tract is proposed or required, an adequate amount of land and an appropriate location must be designated on the Preliminary Plan; and
- B. The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.

Findings: No stormwater tract is proposed or required. Therefore, criterion A is not applicable.

The City of Portland requires that stormwater from development be cleaned and disposed of in a manner that meets the requirements of the City's <u>Stormwater Management Manual</u>. In order to meet this approval criterion, land division proposals must demonstrate an approved method of cleaning (water quality treatment), detention (delayed release), and an approved disposal point.

The <u>Stormwater Management Manual</u> contains a hierarchy of acceptable methods of stormwater treatment and disposal. The hierarchy requires that applicants first explore the use of methods that have a lower potential impact on groundwater, such as on-site surface infiltration swales and infiltration planters. If these methods are not feasible on a site, applicants may move lower on the hierarchy, to methods that inject water deeper into the ground through mechanical devices such as drywells or sumps, or carry it off of the site into storm sewers, drainageways, or other approved disposal points.

In addition to determining appropriate treatment and disposal methods by working through the hierarchy in the <u>Stormwater Management Manual</u>, stormwater facilities must be sized, through engineering calculations, to accommodate the expected amounts of stormwater. In some cases, sizing a stormwater facility necessitates testing the infiltration rate of the soil at the site.

The applicant has proposed the following stormwater management methods (Exhibit C-3), and the Bureaus have responded as follows (Exhibits E-1 and E-5):

• Parcel 1 (the parcel with the existing house): The existing house has downspouts and rain drains that discharge to two existing drywells located on the site. One drywell

is located west of the existing house to remain on Parcel 1. The other drywell is east of the house and straddles the new property line. Prior to final plat approval, the eastern drywell must be decommissioned and modifications shall be made to redirect stormwater from the east side of the house to a new drywell. The applicant is required to finalize plumbing permits prior to final plat approval for modifications to the stormwater disposal system on the existing house and installation of a new drywell that will result in properly functioning gutters, downspouts, and disposal points, located outside of required setbacks.

• **Parcel 2:** Stormwater from this lot will be directed to an individual soakage trench that will treat the water and slowly infiltrate it into the ground. As shown on the Utility Map (Exhibit C-3), this lot has sufficient area for a stormwater facility that can be adequately sized and located to meet setback standards, and accommodate water from a reasonably-sized home. Site Development has indicated conceptual approval of the soakage trench and an updated utility plan addresses concerns expressed by the Bureau of Environmental Services in Exhibit E-1.

With the conditions of approval described above, the stormwater management criteria are met. As shown by the findings above, the Services and Utilities criteria are met.

DEVELOPMENT STANDARDS

General Information about Development Standards and Approval Criteria. The Zoning Code contains two types of regulations: Development standards and Approval criteria.

Approval criteria, such as those listed earlier in this report, are administered through a land use review process. Approval criteria are regulations where the decision-maker must exercise discretion to determine if the regulation is met. Public notice is provided and public comments received that address the approval criteria are addressed in the decision.

Development Standards: Development standards are clear and objective regulations (for example: building setbacks; number of required parking spaces; and maximum floor area). Compliance with development standards is reviewed as part of the administrative permitting process and are not considered to be discretionary reviews. Development standards that are not relevant to the land division review, have not been addressed in the review, but will have to be met at the time that each of the proposed lots is developed.

Existing development that will remain after the land division. The existing development on the site will remain and be located on Parcel 1. The division of the property may not cause the structures to move out of conformance or further out of conformance to any development standard applicable in the R2.5 zone (Please see section on Other Technical Standards for Building Code standards.)

In this case, there are several Zoning Code standards that relate to existing development on the site:

• <u>Minimum Setbacks</u> – The existing house identified to remain on the site must meet the required Zoning Code setbacks from the proposed <u>new</u> lot lines. Alternatively, existing buildings must be set back from the new lot lines in conformance with an approved Adjustment or other Land Use Review decision that specifically approves alternative setbacks. The existing house will be 10-feet from the new property line. Therefore, the required setbacks are being met. To ensure this standard continues to be met at the final plat stage, the final plat must be accompanied by a supplemental survey showing the location of the existing building relative to the adjacent new lot lines.

• Accessory Structures – In this zone, accessory structures are not allowed on a lot without a primary structure. Therefore, in order for the proposed new parcel to meet this standard, the shed on Parcel 2 must be removed prior to final plat. Based on submitted plans, it appears the shed is less than 200 square feet in area and therefore does not require a demolition permit for removal. The applicant must provide documentation, in the form of pictures, prior to final plat approval that the shed has been removed. To ensure that this standard is met, a condition of approval is necessary.

With the conditions noted above, this land division proposal can meet the requirements of 33.700.015.

OTHER TECHNICAL REQUIREMENTS

Technical decisions have been made as part of this review process. These decisions have been made based on other City Titles, adopted technical manuals, and the technical expertise of appropriate service agencies. These related technical decisions are not considered land use actions. If future technical decisions result in changes that bring the project out of conformance with this land use decision, a new land use review may be required. The following is a summary of technical service standards applicable to this preliminary partition proposal.

Bureau	Code Authority	Topic	Contact Information
Water Works	Title 21	Water availability	503-823-7404 http://www.water.ci.portland.or.us/
Environmental Services	Title 17; 2002 Stormwater Manual	Sewer availability Stormwater Management	503-823-7740 http://www.bes.ci.portland.or.us/
Fire Bureau	Title 31 Policy B-1	Emergency Access	503-823-3700 http://www.fire.ci.portland.or.us/
Transportation	Title 17, Transportation System Plan	Design of public street	503-823-5185 http://www.trans.ci.portland.or.us/
Development Services	Titles 24 –27, Admin Rules for Private Rights of Way	Building Code, Erosion Control, Flood plain, Site Development & Private Streets	503-823-7300 http://www.bds.ci.portland.or.us.

As authorized in Section 33.800.070 of the Zoning Code conditions of approval related to these technical standards have been included in the Administrative Decision on this proposal.

- The applicant must meet the requirements of the Fire Bureau in regards to aerial Fire Department access roads or the height of new structures shall be limited to 30-feet. These requirements are based on the technical standards of Title 31 and the Oregon Fire Code (Exhibit E-4).
- The applicant must meet the requirements of Urban Forestry for street tree planting in the existing planter strip in SE 70th Avenue adjacent to Parcel 1 prior to final plat approval. This requirement is based on the standards of Title 20 (Exhibit E-6).

CONCLUSIONS

The applicant has proposed a 2 parcel partition, as shown on the attached preliminary plan (Exhibit C-2). As discussed in this report, the relevant standards and approval criteria have been met, or can be met with conditions. The primary issues identified with this proposal are: utilities & stormwater management.

With conditions of approval that address these requirements this proposal can be approved.

ADMINISTRATIVE DECISION

Approval of a Preliminary Plan for a 2-parcel partition, that will result in one standard parcel that will retain the existing house (Parcel 1) and one standard parcel that will be made available for development consistent with the R2.5 zone, as illustrated with Exhibit C-2, subject to the following conditions:

- **A. Supplemental Plan.** Three copies of an additional supplemental plan for BDS LUS shall be submitted with the final plat survey. That plan must portray how the conditions of approval listed below are met. In addition, the supplemental plan must show the surveyed location of the following:
 - Any buildings or accessory structures on the site at the time of the final plat application;
 - Any driveways and off-street vehicle parking areas on the site at the time of the final plat application;
 - Existing/proposed easements;
 - Any other information specifically noted in the conditions listed below.

B. The final plat must show the following:

- 1. A private sanitary sewer easement, for the benefit of Parcel 2, shall be shown and labeled over the relevant portions of Parcel 1.
- 2. A recording block for each of the legal documents such as maintenance agreement(s), acknowledgement of special land use conditions, or Declarations of Covenants, Conditions, and Restrictions (CC&Rs) as required by Condition C-7 below. The recording block(s) shall, at a minimum, include language substantially similar to the following example: "A Declaration of Maintenance Agreement for Private Sanitary Sewer Easement has been recorded as document no. _______, Multnomah County Deed Records."

C. The following must occur prior to Final Plat approval:

Utilities

- 1. The applicant shall meet the requirements of the Site Development Section of the Bureau of Development Services for decommissioning of the existing cesspool and connecting the existing house on Parcel 1 to the public sanitary sewer system in SE 70th Avenue.
- 2. The applicant shall meet the requirements of the Water Bureau for providing plans and financial assurances for the water main extension in SE Tolman Street.

Existing Development

- 3. The applicant must provide documentation, in the form of photographs, that the shed located on Parcel 2 has been removed. Alternately, the applicant can execute a covenant with the City stating that the structure will be removed if a primary structure has not received final inspection on the parcel with the accessory structure within two years of final plat approval. The covenant must be recorded with Multnomah County prior to final plat approval.
- 4. The applicant must meet the requirements of Site Development for the stormwater systems on the existing house to remain on Parcel 1. Specifically, the exiting drywell east of the house must be decommissioned and the gutters and downspouts must function properly, and they must direct water to an approved disposal point that meets setback requirements from the new lot lines. The applicant must obtain finalized plumbing permits for this work prior to final plat approval.
- 5. The applicant must plant 2 street tree(s) in the planter strip on SE 70th Avenue adjacent to parcel 1. Street trees will be chosen from the City's approved street tree list for the 3.5-foot planting strip. Tree size requirements for residential sites are to be 2-inch caliper. The applicant must contact Urban Forestry at 503-823-4018 prior to selecting trees to discuss the species of trees that are permitted and to obtain the planting permit. Urban Forestry must inspect and approve the newly planted trees prior to final plat approval.

Required Legal Documents

6. A Maintenance Agreement shall be executed for the Private Sanitary Sewer Easement area described in Condition B-1 above. The agreement shall include provisions assigning maintenance responsibilities for the easement area and any shared facilities within that area, consistent with the purpose of the easement, and all applicable City Code standards. The agreement must be reviewed by the City Attorney and the Bureau of Development Services, and approved as to form, prior to final plat approval.

D. The following conditions are applicable to site preparation and the development of individual lots:

1. The applicant must provide adequate aerial fire access to the satisfaction of the Fire Bureau or the height of the new structures shall be limited to 30 feet, measured to the eave.

Decision rendered by:

on September 9, 2008

By authority of the Director of the Bureau of Development Services

Decision mailed: September 12, 2008.

Staff Planner: Sean Williams

About this Decision. This land use decision is **not a permit** for development. A Final Plat must be completed and recorded before the proposed lots can be sold or developed. Permits may be required prior to any work. Contact the Development Services Center at 503-823-7310 for information about permits.

Procedural Information. The application for this land use review was submitted on May 30, 2008, and was determined to be complete on July 3, 2008.

Zoning Code Section 33.700.080 states that Land Use Review applications are reviewed under the regulations in effect at the time the application was submitted, provided that the application is complete at the time of submittal, or complete within 180 days. Therefore this application was reviewed against the Zoning Code in effect on May 30, 2008.

ORS 227.178 states the City must issue a final decision on Land Use Review applications within 120-days of the application being deemed complete. The 120-day review period may be waived or extended at the request of the applicant. In this case, the applicant waived the 120-day review period, as stated with Exhibit G-4.

Some of the information contained in this report was provided by the applicant.

As required by Section 33.800.060 of the Portland Zoning Code, the burden of proof is on the applicant to show that the approval criteria are met. The Bureau of Development Services has independently reviewed the information submitted by the applicant and has included this information only where the Bureau of Development Services has determined the information satisfactorily demonstrates compliance with the applicable approval criteria. This report is the decision of the Bureau of Development Services with input from other City and public agencies.

Conditions of Approval. If approved, this project may be subject to a number of specific conditions, listed above. Compliance with the applicable conditions of approval must be documented in all related permit applications. Plans and drawings submitted during the permitting process must illustrate how applicable conditions of approval are met. Any project elements that are specifically required by conditions of approval must be shown on the plans, and labeled as such.

These conditions of approval run with the land, unless modified by future land use reviews. As used in the conditions, the term "applicant" includes the applicant for this land use review, any person undertaking development pursuant to this land use review, the proprietor of the use or development approved by this land use review, and the current owner and future owners of the property subject to this land use review.

This decision, and any conditions associated with it, is final. It may be appealed to the Oregon Land Use Board of Appeals (LUBA), within 21 days of the date the decision is mailed, as specified in the Oregon Revised Statute (ORS) 197.830. Among other things, ORS 197.830 requires that a petitioner at LUBA must have submitted written testimony during the comment period for this land use review. You may call LUBA at 1-503-373-1265 for further information on filing an appeal.

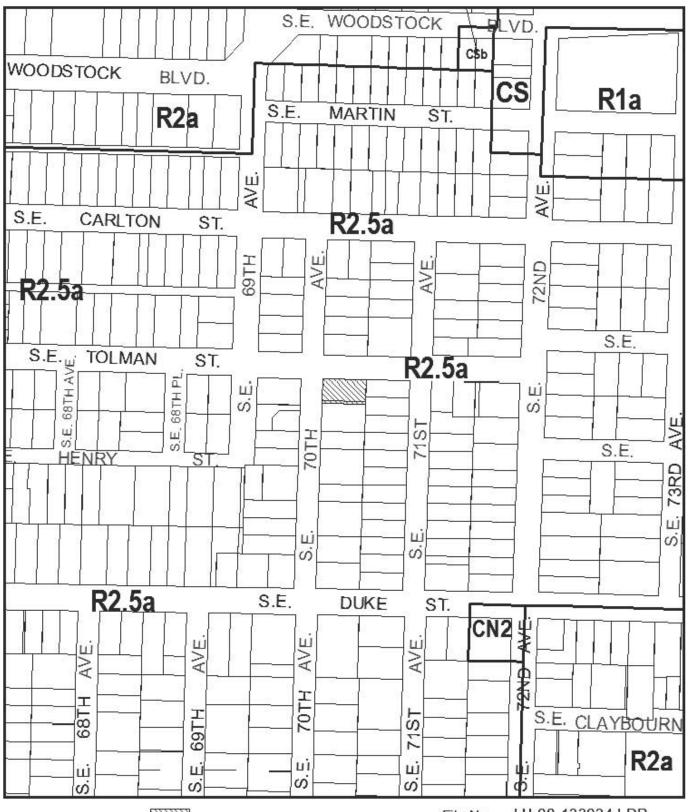
The file and all evidence on this case is available for your review by appointment. Please contact the receptionist at 503-823-7967 to schedule an appointment. Copies of all information in the file can be obtained for a fee equal to the cost for such services. You may also find additional information about the City of Portland and City Bureaus, as well as a digital copy of the Portland Zoning Code, by visiting the City's homepage on the Internet at www.portlandonline.com.

Recording the land division. The final land division plat must be submitted to the City within three years of the date of the City's final approval of the preliminary plan. This final plat must be recorded with the County Recorder and Assessors Office after it is signed by the Planning Director or delegate, the City Engineer, and the City Land Use Hearings Officer, and approved by the County Surveyor. The approved preliminary plan will expire unless a final plat is submitted within three years of the date of the City's approval of the preliminary plan.

EXHIBITS

- B. Zoning Map (attached)
- C. Plans/Drawings:
 - 1. Existing Conditions Map (attached)
 - 2. Preliminary Land Division Map (attached)
 - 3. Utility Map (attached)
- D. Notification information:
 - 1. Mailing list
 - 2. Mailed notice
- E. Agency Responses:
 - 1. Bureau of Environmental Services
 - 2. Bureau of Transportation Engineering and Development Review
 - 3. Water Bureau
 - 4. Fire Bureau
 - 5. Site Development Review Section of BDS (w/ addendum)
 - 6. Bureau of Parks, Forestry Division
 - 7. Life Safety Plans Examiner
- F. Correspondence:
 - 1. Barb Meyer; 6305 SE 71st Avenue (7/22/08)
- G. Other:
 - 1. Original LU Application
 - 2. Site History Research
 - 3. Plumbing code appeal
 - 4. Request for extension 120-Day Review Period
 - 5. Incomplete Letter

The Bureau of Development Services is committed to providing equal access to information and hearings. If you need special accommodations, please call 503-823-0625 (TTY 503-823-6868).

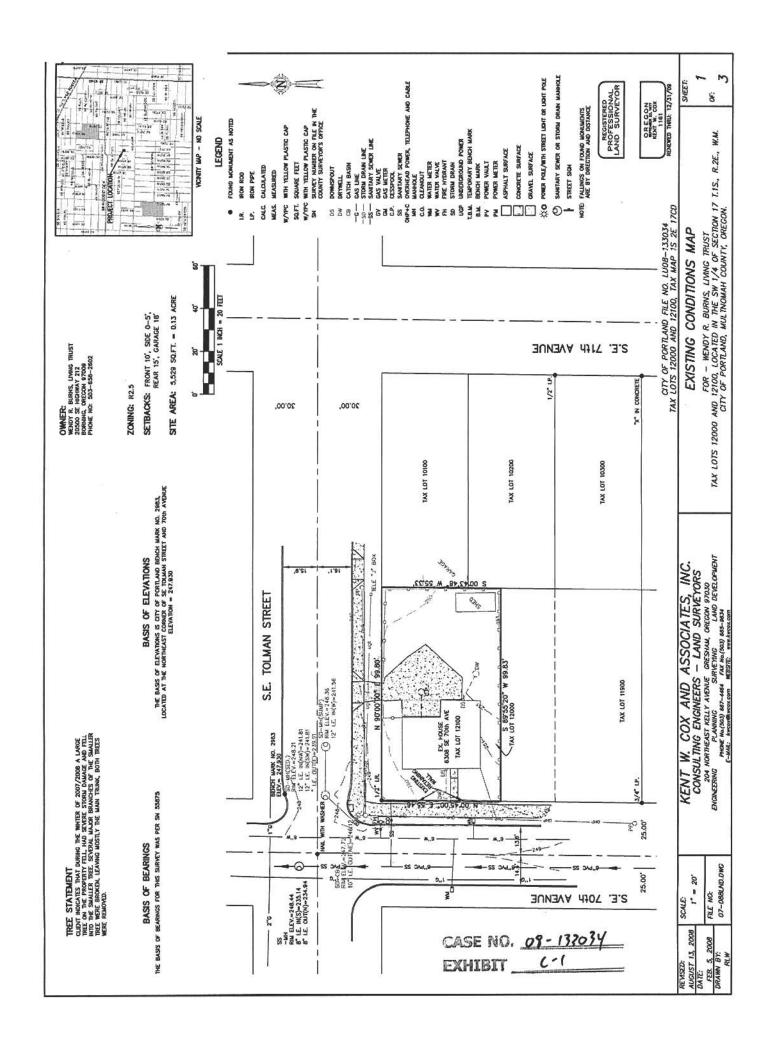


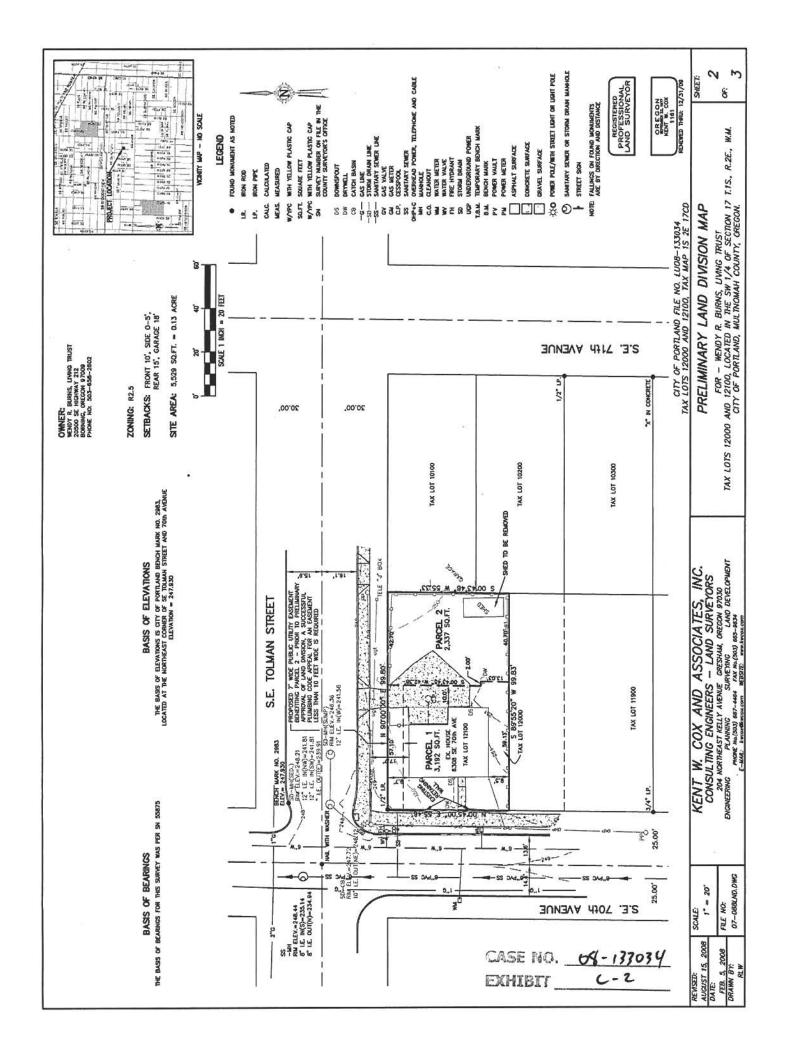
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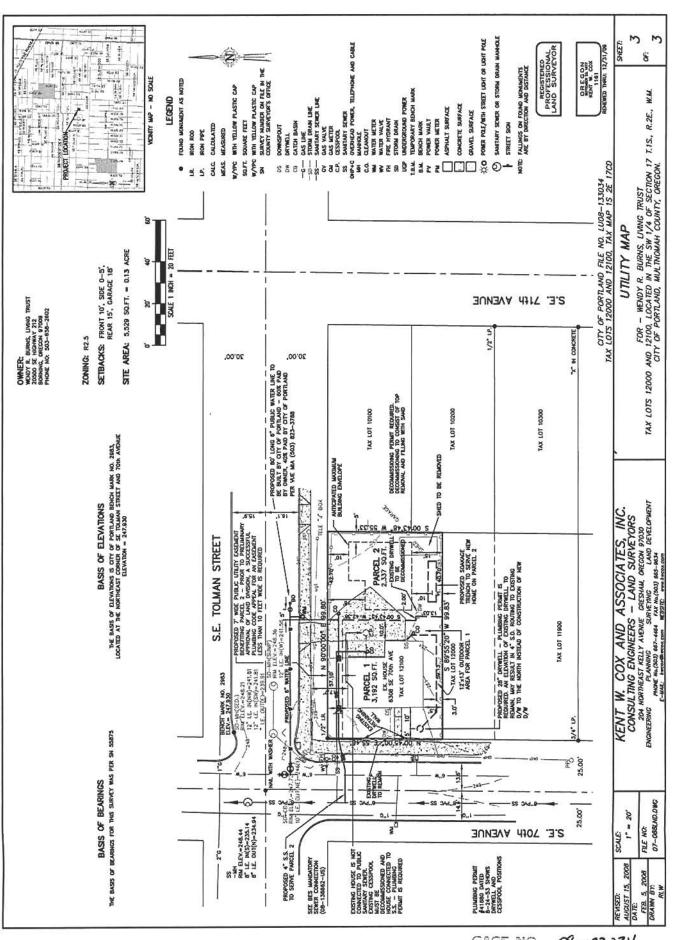




File No.	LU 08-133034 LDP
1/4 Section	3637
	1 inch = 200 feet
	1S2E17CD 12100
Exhibit _	B (Jun 04,2008)







CASE NO. <u>08-133034</u> EXHIBIT <u>C-3</u>